

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of San Diego Gas & Electric Company (U902M) for Authority, Among Other Things, to Increase Rates and Charges for Electric and Gas Service Effective on January 1, 2012.

Application 10-12-005
(Filed December 15, 2010)

And Related Matter.

Application 10-12-006

DECISION GRANTING COMPENSATION TO THE UTILITY WORKERS UNION OF AMERICA FOR SUBSTANTIAL CONTRIBUTION TO DECISION 13-05-010

Claimant: Utility Workers Union of America (UWUA)	For contribution to Decision 13-05-010
Claimed (\$): \$11,720.00	Awarded (\$):\$10,880.00 (reduced 7.1%)
Assigned Commissioner: Michael R. Peevey	Assigned ALJ: John S. Wong

PART I: PROCEDURAL ISSUES

<p>A. Brief Description of Decision:</p>	<p>Decision (D.) 13-05-010: This decision resolves the test year 2012 general rate cases for San Diego Gas & Electric Company (SDG&E) and Southern California Gas Company (SoCalGas). The decision adopted a 2012 revenue requirement representing the reasonable costs of providing safe and reliable utility service to the customers of SDG&E and SoCalGas in that year, and also adopts post-test year increases for 2013, 2014 and 2015.</p> <p>Among other things, in Ordering Paragraph 31 of D.13-05-010, the Commission confirmed all of the prior rulings issued in this proceeding, including the January 25, 2012 ruling regarding the September 22, 2011 “Motion Of The UWUA For A Directive To Protect Employees Participating Directly As Witnesses Or Indirectly As Sources Of Information” (Motion for Protective Order). In the January 25, 2012 ruling, SoCalGas was prevented, except in disciplinary and other appropriate actions to enforce employee compliance with applicable laws, regulations, and the internal policies of SoCalGas, from taking any adverse action against an employee who appeared as a witness or otherwise furnished information to the Commission in these proceedings.</p> <p>In addition, D.13-05-010 solicited comment from the parties about the possible conflict between D.05-02-054, and the November 14, 2011 ruling on UWUA’s preliminary eligibility for intervenor compensation, and UWUA’s intervenor compensation claim request.</p>
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B. Claimant must satisfy intervenor compensation requirements set forth in Public Utilities Code §§ 1801-1812:

	Claimant	CPUC Verified
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
1. Date of Prehearing Conference (PHC)	January 31, 2011	Yes
2. Other Specified Date for NOI:	N/A	
3. Date NOI Filed:	1/25/2011	Filed 3/2/2011 ¹
4. Was the NOI timely filed?		Yes
Showing of customer or customer-related status (§ 1802(b)):		
5. Based on Administrative Law Judge (ALJ) ruling issued in proceeding number:	Application (A.) A.10-12-005, A.10-12-006	Yes
6. Date of ALJ ruling:	11/14/2011	Yes
7. Based on another CPUC determination (specify):		
8. Has the Claimant demonstrated customer or customer-related status?		Yes ²
Showing of “significant financial hardship” (§ 1802(g)):		
9. Based on ALJ ruling issued in proceeding number:	A.10-12-005, A.10-12-006	Yes
10. Date of ALJ ruling:	11/14/2011	Yes
11. Based on another CPUC determination (specify):		
12. Has the Claimant demonstrated significant financial hardship?		Yes
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	D.13-15-010	Yes
14. Date of Issuance of Final Order or Decision:	5/14/2013	Yes
15. File date of compensation request:	7/15/2013	Yes
16. Was the request for compensation timely?		Yes

¹ UWUA originally served its NOI on January 25, 2011, but the NOI was never accepted for filing until March 2, 2011.

² See Part III.D of this decision.

C. Additional Comments on Part I:

#	Claimant	CPUC	Comment
			The Commission requested comment on the applicability of D.05-02-054, which comments were contained in the “Request for Intervenor Compensation,” which was attached to UWUA’s intervenor compensation claim. ³

PART II: SUBSTANTIAL CONTRIBUTION**A. Claimant’s description of its contribution to the final decisions (*see* Public Utilities Code § 1802(i), § 1803(a) & D.98-04-059).**

Contribution	Specific References to Claimant’s Presentations and to Decision	Showing Accepted by CPUC
Grant of UWUA Motion for Protective Order, issued January 25, 2012, which was confirmed in Ordering Paragraph 31 of D.13-05-010.	UWUA Motion for Protective Order, filed September 22, 2011.	Yes

B. Duplication of Effort (Public Utilities Code §§ 1801.3(f) & 1802.5):

	Claimant	CPUC Verified
a. Was the Office of Ratepayer Advocates (ORA)⁴ a party to the proceeding?	Yes	Verified
b. Were there other parties to the proceeding with positions similar to yours?	No	Verified
c. If so, provide name of other parties:		
d. Describe how you coordinated with ORA and other parties to avoid duplication or how your participation supplemented, complemented, or contributed to that of another party: DRA took no action to obtain employee testimony or to protect employee		Verified We find that UWUA’s participation did

³ The full title of this document is UWUA’s “Request for Intervenor Compensation, Request to Establish Hourly Rates, and Comments on Issues Directed by D.13-05-010.” A copy of that document was filed on July 15, 2013 with UWUA’s intervenor compensation claim.

⁴ The Division of Ratepayer Advocates was renamed the Office of Ratepayer Advocates effective September 26, 2013, pursuant to Senate Bill No. 96 (Budget Act of 2013: Public Resources), which was approved by the Governor on September 26, 2013.

informants.	not duplicate other parties' efforts.
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C. Additional Comments on Part II:

#	Claimant	CPUC	Comment
		X	<p>The filing and granting of UWUA's Motion for Protective Order made a substantial contribution to D.13-05-010 because it allowed its members, who are employees and customers of SoCalGas, to provide a unique perspective as a party to this proceeding on certain issues in this proceeding. This resulted in UWUA making proposals and recommendations without fear of retaliation against the employees who provided the testimony on behalf of UWUA. This testimony helped to highlight, define, and evaluate the considerations that resulted in the Commission's outcome on certain operational issues that UWUA raised. For example, UWUA's concerns about SoCalGas' response to gas leaks led to the Commission requiring both SDG&E and SoCalGas to compile information about their response to gas leak calls, and to explain their efforts to minimize the response time to priority leak calls. (See D.13-05-010, Section 11.2.3.7.3 at 522-523, Conclusion of Law 32 at 1095.)</p>
		X	<p>In Section 29.3 of D.13-05-010, the Commission raised the issue of whether D.05-02-054 should apply to UWUA's intervenor compensation request. In D.05-02-054, the Commission held that a labor union was not eligible for intervenor compensation because it did not meet the definition of a customer as set forth in Public Utilities Code Section 1802(b)(1).</p> <p>In its Request for Intervenor Compensation, UWUA argues that D.05 02 054 does not apply because UWUA's Constitution was amended in light of that decision's objection that the labor union did not meet the criteria as a Category 1, 2, or 3 customer. In UWUA's Preamble to its Constitution, which was amended after D.05-02-054, it states in part that it may "Participate in regulatory, legislative, legal and electoral proceedings to protect the interests of consumers and the public (including our members) in reliable, safe and environmentally sound utilities at affordable, just and reasonable costs." UWUA also points out that D.05-02-054 does not hold that labor organizations are generically ineligible for intervenor</p>

			<p>compensation.</p> <p>We agree with UWUA’s arguments that D.05-02-054 does not apply to UWUA’s status as a customer in this proceeding, and its intervenor compensation claim. UWUA demonstrated in its notice of intent, as noted in the November 14, 2011 ruling on UWUA’s showing of significant financial hardship, that the Constitution of the UWUA was amended to allow it to participate in regulatory proceedings to protect the interests of consumers and the public. In addition, the bylaws of UWUA’s Local Union 132 contain similar language. Thus, for purposes of this proceeding, UWUA is a “customer” as defined in Public Utilities Code Section 1802(b). Accordingly, we conclude that D.05-02-054 is not applicable to the showing made by UWUA in this proceeding.</p> <p>Since UWUA’s Motion for Protective Order addressed only SoCalGas, and because UWUA’s testimony was confined to the operations of SoCalGas, the intervenor compensation claim of UWUA should be paid for by SoCalGas.</p>
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PART III: REASONABLENESS OF REQUESTED COMPENSATION

A. General Claim of Reasonableness (§§ 1801 & 1806):

<p>a. Concise explanation as to how the cost of Claimant’s participation bears a reasonable relationship with benefits realized through participation:</p> <p>UWUA filed an unprecedented motion to facilitate employee production of information by prospectively admonishing the utility employers to refrain from retaliation or other activity that might deter employees from coming forward with safety-related information. This motion was filed simultaneously with UWUA’s prepared testimony, which contained information in the possession of employees who may have been at risk for bringing it forward. The motion has empowered employees to bring forward information that will be useful to the Commission for years to come.</p>	<p>CPUC Verified</p> <hr/> <p>Verified</p>
<p>b. Reasonableness of Hours Claimed.</p> <p>See the Request for Intervenor Compensation document attached to UWUA’s intervenor compensation claim.</p>	<p>Verified</p>
<p>c. Allocation of Hours by Issue</p> <p>See the Request for Intervenor Compensation document attached</p>	

to UWUA's intervenor compensation claim.	Verified
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B. Specific Claim:*

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate **	Total \$
Bill Julian	2011	14	\$460	See Comment(s)	\$6,640.00	14	\$460	\$6,640.00
Bill Julian	2012	2	\$470		\$940.00	2	\$470	\$940.00
Bill Julian	2013	2	\$480		\$960.00	2	\$480	\$960.00
Carl Wood	2011	5	\$280		\$1,400.00	5	\$280	\$1,400.00
Carl Wood	2013	1	\$300		\$300.00	1	\$300	\$300.00
				Subtotal	\$10,040.00			\$10,040.00
INTERVENOR COMPENSATION CLAIM PREPARATION***								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
	2013	3.5	\$480/hr		\$1,680.00	3.5	\$240.00	\$840.00
	Subtotal:				\$1,680.00	Subtotal:		\$840.00
TOTAL REQUEST				\$11,720.00		TOTAL AWARD	\$10,880.00	
<p>*We remind all intervenors that Commission staff may audit their records related to the award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Claimant's records should identify specific issues for which it seeks compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees paid to consultants and any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.</p> <p>** Reasonable claim preparation time typically compensated at ½ of preparer's normal hourly rate.</p>								

Attorney	Date Admitted to CA BAR ⁵	Member Number	Actions Affecting Eligibility (Yes/No?) If "Yes", attach explanation
William (Bill) Julian	June 3, 1983	107841	No.

C. Attachments Documenting Specific Claim and Comments on Part III:

Attachment or Comment #	Description/Comment
Attachment 1	Certificate of Service
Attachment 2	Request for Intervenor Compensation, Request to Establish Hourly Rates, and Comments on Issues Directed by D.13-05-010
Attachment 3	Assigned Commissioner and Administrative Law Judge's Ruling Regarding Motion of the Utility Workers Union of America for a Directive to Protect Employees

D. CPUC Disallowances & Adjustments:

#	Reason
1. Adoption of Bill Julian's hourly rate(s).	According to UWUA's Request for Intervenor Compensation, Julian is an attorney admitted to practice in Indiana (since 1974) and California (since 1983). While in Indiana, he litigated utility cases. In California, he staffed the utility committees in the State Legislature from 1983-1994, and 2004-2006. He served as legal advisor, litigator and Legislative Director at the Commission from December 1999 through December 2004. While at the Commission he participated in the energy crisis litigation discussions, and signed briefs and pleadings on the Commission's behalf in appellate cases. For attorneys with more than 13 years' experience, the ranges of hourly rates in 2011 were \$300 to \$535, for 2012 of \$305 to \$545, and for 2013 of \$310 to \$555. Given Julian's extensive involvement with Commission proceedings, and his experience with the statutes and procedures that govern the Commission, UWUA contends that the proposed hourly rates for Julian are appropriate.
2. Adoption of Carl Wood's hourly rate(s).	According to UWUA's Request for Intervenor Compensation, Wood is currently the national Regulatory Affairs Representative for the UWUA. From June 1999 through December 2004, Wood was a Commissioner at this Commission. As a Commissioner, Wood chaired the Consumer Protection Committee at NARUC. Prior to becoming a Commissioner, he was the National Deregulation Coordinator for the UWUA. Wood has appeared before numerous state legislatures and state commissions in the years both preceding and following his service on the Commission. For non-attorneys with more than 13 years experience, the ranges of hourly

⁵ This information may be obtained at: <http://www.calbar.ca.gov/>.

	rates in 2011 were \$155 to \$390, for 2012 of \$160 to \$400, and for 2013 of \$165 to \$410. Given Wood's extensive involvement in the policy-making arena in the utility industry, UWUA contends that the proposed hourly rates for Wood are appropriate.
3. Reduction to hours spent on drafting Icomp Request.	We note that UWUA's substantial contribution to D.13-05-010 revolves around its motion, the ruling on the motion, and the Commission's confirmation of all the prior rulings in this proceeding in D.13-05-010. UWUA's motion was filed on September 22, 2011, the ruling on the motion was issued on January 25, 2012, and D.13-05-010 was adopted in May 2013. In D.13-05-010, we requested UWUA to discuss the applicability of D.05-02-054 in its intervenor compensation request. Since such comments are not normally included in an intervenor compensation request, we will allow the 2013 hours spent by Julian and Wood on this issue. However, as noted below, Julian's time spent preparing the intervenor compensation claim is reduced by half.

PART IV: OPPOSITIONS AND COMMENTS

A. Opposition: Did any party oppose the Claim?	No
B. Comment Period: Was the 30-day comment period waived (see Rule 14.6(c)(2) and (c)(6))?	Yes

FINDINGS OF FACT

1. Ordering Paragraph 31 of Decision 13-05-010 confirmed all of the prior rulings issued in this proceeding, including the January 25, 2012 ruling regarding Utility Workers Union of America's September 22, 2011 Motion for Protective Order.
2. Decision (D.) 13-05-010 solicited comment from the parties about the possible conflict between D.05-02-054 and the November 14, 2011 ruling on Utility Workers Union of America (UWUA's) preliminary eligibility for intervenor compensation, and UWUA's intervenor compensation claim request.
3. Utility Workers Union of America (UWUA) has made a substantial contribution to Decision 13-05-010 because its Motion for Protective Order resulted in testimony by its members, without fear of retaliation, which helped define, highlight, and evaluate the considerations that resulted in the Commission's outcome on the issues UWUA raised.

4. The requested hourly rates for the representatives of Utility Workers Union of America are comparable to the market rates paid to experts and advocates having comparable training and experience and offering similar services.
5. The claimed costs are reasonable and commensurate with the work performed.
6. For purposes of this proceeding, Utility Workers Union of America is a “customer” as defined in Public Utilities Code Section 1802(b).
7. Utility Workers Union of America’s Motion for Protective Order and testimony addressed the operations of SoCalGas.
8. The total of reasonable contribution is \$10,880.00.

CONCLUSION OF LAW

1. The hourly rate requested for preparing the intervenor compensation claim should be reduced by 50%.
2. D.05-02-054 is not applicable to Utility Workers Union of America (UWUA) status as a customer in this proceeding because UWUA’s Constitution was subsequently amended to allow it to participate in regulatory proceedings to protect the interests of consumers and the public regarding reliable, safe, and environmentally sound utilities at affordable, just and reasonable costs.
3. Southern California Gas Company should pay 100% of Utility Workers Union of America’s intervenor compensation claim.
4. The intervenor compensation claim of the Utility Workers Union of America satisfies all of the requirements of Public Utilities Code §§ 1801-1812.

ORDER

1. The claimant, the Utility Workers Union of America, is awarded \$10,880.00.
2. Within 30 days of the effective date of this decision, Southern California Gas Company shall pay the claimant, the Utility Workers Union of America, the award. Payment of the award shall include compound interest at the rate earned on prime, three-month non-financial commercial paper as reported in Federal Reserve Statistical Release H.15, beginning September 28, 2013, the 75th day after the filing of Utility Workers Union of America’s request, and continuing until full payment is made.

3. The comment period for today's decision is waived.

This decision is effective today.

Dated _____, at San Francisco, California.

APPENDIX A**Compensation Decision Summary Information**

Compensation Decision:		Modifies Decision?	No
Contribution Decision(s):	D1305010		
Proceeding(s):	A1012005, A1012006		
Author:	ALJ Wong		
Payer(s):	Southern California Gas Company		

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier ?	Reason Change/Disallowance
Utility Workers Union of America (UWUA)	07/15/2013	\$11,720.00	\$10,880.00	No	50% reduction for preparation of intervenor compensation claim.

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Bill	Julian	Attorney	UWUA	\$460	2011	\$460
Bill	Julian	Attorney	UWUA	\$470	2012	\$470
Bill	Julian	Attorney	UWUA	\$480	2013	\$480
Carl	Wood	Expert	UWUA	\$280	2011	\$280
Carl	Wood	Expert	UWUA	\$300	2013	\$300

(END OF APPENDIX)